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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

In re: Hyundai and Kia Engine
Litigation II

Case No. 8:18-cv-02223-JLS-JDE

**SUPPLEMENTAL
DECLARATION OF MATTHEW
D. SCHELKOPF IN SUPPORT
OF PLAINTIFFS' REPLY IN
SUPPORT OF MOTION FOR
CLASS COUNSEL FEE AND
EXPENSE AWARD AND CLASS
REPRESENTATIVE SERVICE
AWARDS**

Date: September 8, 2023
Time: 10:30 a.m.
Hon. Josephine L. Staton
Courtroom: 8A

1 I, Matthew D. Schelkopf, declare as follows:

2 1. I am an attorney admitted pro hac vice in this litigation, a partner at the
3 law firm of Sauder Schelkopf LLC, and counsel of record for Plaintiffs in *In re:*
4 *Hyundai and Kia Engine Litigation II*, No. 8:18-cv-02223 (C.D. Cal.). I could and
5 would competently testify to the matters stated in this declaration based on my
6 personal knowledge or discussions with counsel in my firm.

7 2. I submit this supplemental declaration in support of Plaintiffs' Reply in
8 Support of Motion for Class Counsel Fee and Expense Award and Class
9 Representative Service Awards, filed concurrently herewith.

10 **The Short Matter**

11 3. As stated in my initial declaration in support of our fee motion, the
12 discovery conducted in *Short et al. v. Hyundai Motor Company, et al.*, No. 2:19-cv-
13 00318-JLR (W.D. Wash.) aided and informed our progress and settlement of this
14 Action. *See* Dkt. 106-7 (Schelkop Decl.) ¶ 21. The Declaration of Steve W. Berman,
15 also submitted in support of Plaintiffs' Reply in Support of Motion for Class Counsel
16 Fee and Expense Award and Class Representative Service Awards, expands on the
17 impact of *Short* in the settlement of this matter.

18 4. As a supplement to that declaration, my firm – along with co-counsel
19 Walsh PLLC and the Law Office of Adam R. Gonnelli – filed *Marbury v. Hyundai*
20 *Motor Am., Inc.*, No. 8:21-cv-00379 (C.D. Cal.) on February 26, 2021. The *Marbury*
21 Complaint focused its allegations on alleged defects in the Theta II multi-point
22 injection (“MPI”) engines. Conversely, the remaining claims in *Flaherty v. Hyundai*
23 *Motor Co.*, No. 8:18-cv-02223 (C.D. Cal.) related to Gamma and Nu gasoline direct
24 injection (“GDI”) engines. The *Short* action also involved allegations of defective
25 Gamma, Nu, and MPI engines.

26 5. The discovery received in *Engine I* related solely to GDI engines. As
27 such, discovery related MPI engines was crucial to negotiating and agreeing to a
28 settlement in this case. Consultations with *Short*'s counsel regarding their discovery

1 findings and expert opinions helped ensure the proposed Settlement included affected
2 vehicles that shared a common defect appropriate for class-wide resolution.

3 **Anticipated Post-Final Approval Time**

4 6. In Defendants' Opposition to Plaintiffs' Motion for Attorneys' Fees,
5 they argue that Plaintiffs' counsel estimated fees for post-final approval settlement
6 administration are "excessive." (ECF No. 120, at 19.) According to Defendants, the
7 number of notices submitted is not the right proxy for comparison to the significant
8 post-final approval incurred in *Engine I*, and it should be the "number of class
9 vehicles." *Id.* This would yield \$1.04 million in additional fees.

10 7. But Defendants argue that even that should be "adjusted downward"
11 because of efficiencies learned and implemented from *Engine I*. Defendants do not
12 point to anything concrete that establishes "class counsel will need to spend fewer
13 hours on settlement administration." Instead, it relies on conjecture about
14 improvements to the definition of Exceptional Neglect and improvements to the
15 claim submission process. While Plaintiff's counsel can appreciate there have been
16 improvements, none of these improvements have any objective data that would allow
17 the parties to measure their impact.

18 8. Instead, Plaintiff's counsel believes the best (and only) way to properly
19 assess their post-final approval time is based on their experience in *Engine I*. There,
20 plaintiffs' counsel performed over \$2 million of additional work post-final approval.
21 This time was not limited to solely disputes about Exceptional Neglect, or technical
22 issues with the claims submission process. Instead, it was incurred assisting class
23 members with their claims, answering their questions, resolving disputes with both
24 the claims administrators and with defense counsel, auditing the claims generally,
25 and ensuring the claims process was working smoothly.

26 9. In the two months between submitting their initial fee brief in *Engine I*
27 and supplementing it, Class Counsel's lodestar increased by \$685,128. At the time
28

1 of the second fee mediation in *Engine II* in April 2023, the post-final approval work
2 conducted in *Engine I* reduced the lodestar awarded from a 1.67 to 1.10.

3 10. Based on the volume of work still being performed on a weekly basis in
4 *Engine I*, I am confident that the lodestar eventually result in a negative multiplier
5 (*i.e.* the fee awarded will be less than the total lodestar).

6
7 I declare under penalty of perjury under the laws of the United States that the
8 foregoing is true and correct.

9 Executed August 11, 2023, at Berwyn, Pennsylvania.

10 /s/ Matthew D. Schelkopf

11 Matthew D. Schelkopf
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